

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

IN RE LORAZEPAM & CLORAZEPATE  
ANTITRUST LITIGATION

MDL Docket No. 1290 (TFH)  
Misc. No. 99ms276 (TFH)

**FILED**

OCT 10 2001

NANCY MAVER WHITTINGTON, CLERK  
U.S. DISTRICT COURT

This Opinion applies to:

STATE OF CONNECTICUT, et al.,  
Plaintiffs,

v.

MYLAN LABORATORIES, INC. et al.,  
Defendants.

and

FEDERAL TRADE COMMISSION,  
Plaintiff,

v.

MYLAN LABORATORIES, INC. et al.,  
Defendants.

**ORDER**

Pending before the Court is a motion to intervene by class members Cathy Shirley, Ronald Weintraub, and Lillie Mae Boone. Upon consideration of the motion, the joint opposition filed by the States and Federal Trade Commission, and the entire record herein, it is hereby

**ORDERED** that the motion to intervene [#148] is **DENIED**. In their motion, Shirley, Weintraub, and Boone rely upon Federal Rule of Civil Procedure 24(a)(2), which authorizes

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intervention of right as follows:

Upon timely application anyone shall be permitted to intervene in an action . . . when the applicant claims an interest relating to the property or transaction which is the subject of the action and the applicant is so situated that the disposition of the action may as a practical matter impair or impede the applicant's ability to protect that interest, unless the applicant's interest is adequately represented by existing parties.

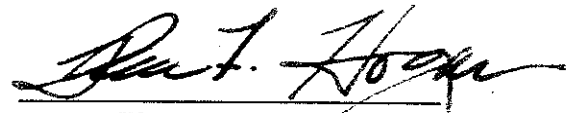
Fed. R. Civ. P. 24(a)(2). The D.C. Circuit has established four requirements for parties who wish to intervene under Rule 24(a)(2): "(1) the application to intervene must be timely; (2) the applicant must demonstrate a legally protected interest in the action; (3) the action must threaten to impair that interest; and (4) no party to the action can be an adequate representative of the applicant's interests." S.E.C. v. Prudential Securities, Inc., 136 F.3d 153, 156 (D.C. Cir. 1998) (citing Williams & Humbert, Ltd. v. W. & H. Trade Marks (Jersey), Ltd., 840 F.2d 72, 74 (D.C. Cir. 1988)). And in addressing a motion to intervene in class action suits, the Court must strike a balance a "balance between keeping class litigation manageable and allowing affected parties to be adequately heard . . . ." Twelve John Does v. District of Columbia, 117 F.3d 571 (D.C. Cir. 1997).

In its one-and-a-half-page entirety, Shirley, Weintraub, and Boone's memorandum of law in support of their motion to intervene states merely that "the attorneys for the litigation group are attempting to settle the claims of the absent class members in a way that is objectionable" to the movants. Pls.'s Mot. at 2. In conclusory fashion, they then claim to "have sufficient interest in the proposed Settlement, and are so situated as class members that the disposition and/or settlement of this class action will otherwise impair or impede their ability to protect their interests." Id. However, the movants provide no support whatsoever for such

conclusions in their motion. They have not cited the appropriate standard, let alone made the requisite showing under it to prevail. The movants have contemporaneously filed objections to the settlement and a notice of intention to appear and be heard at the fairness hearing in November. The movants thus have had and will have an opportunity to express their objections to the settlement. Accordingly, intervention is unnecessary for their objections to be heard and addressed. Rather, intervention would seem to serve only to delay the resolution of this matter. Without a much more significant showing, therefore, the Court cannot find, *inter alia*, any impairment of interest or inadequate representation at this juncture to warrant intervention.<sup>1</sup>

**SO ORDERED.**

October 10, 2001

  
Thomas F. Hogan  
Chief Judge

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<sup>1</sup> It appears from the movants' proposed complaint and objections that the movants dispute the sufficiency of the notice, the necessity of the claim form, and the fairness of the distribution plan. Such objections may be heard at the appropriate time. Even assuming the motion to be timely, the movants' objections do not ipso facto and without explication demonstrate inadequate representation or impairment of interest to justify intervention.